

**AMENDMENTS TO THE CLAIMS**

This listing of claims will replace all prior versions, and listings, of claims in the application.

1.-84. (Canceled)

85. (Currently Amended) An isolated human antibody ~~or functional fragment thereof~~ that specifically binds an epitope of CD38 (SEQ ID NO: 22), wherein said antibody ~~or functional fragment thereof~~ mediates killing of a CD38+ target cell by antibody dependent cellular cytotoxicity with at least five-fold better efficacy than chimeric OKT10 antibody (SEQ ID NOS: 23 and 24) under the same or substantially the same conditions when a human PBMC cell is employed as the effector cell,  
wherein said CD38+ target cell is selected from the group consisting of LP-1 (DSMZ: ACC41) and RPMI-8226 (ATCC: CCL-155), and  
wherein the ratio of effector cells to target cells is between about 30:1 and about 50:1.
86. (Currently Amended) An isolated antibody ~~or functional fragment thereof~~ according to claim 85, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 5 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 13.
87. (Currently Amended) An isolated antibody ~~or functional fragment thereof~~ according to claim 85, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 6 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 14.
88. (Currently Amended) An isolated antibody ~~or functional fragment thereof~~ according to claim 85, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 7 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 15.

89. (Currently Amended) An isolated antibody or functional fragment thereof according to claim 85, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 8 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 16.
90. (Cancelled)
91. (Previously Presented) An isolated antibody to according to claim 85, which is an IgG.
92. (Previously Presented) An isolated antibody to according to claim 91, which is an IgG1.
93. (Currently Amended) An isolated human antibody or functional fragment thereof that specifically binds to an epitope of CD38 (SEQ ID NO: 22),  
wherein said antibody or functional fragment thereof mediates killing of a CD38-transfected CHO cell by cell dependent cytotoxicity with at least two-fold better efficacy than chimeric OKT10 antibody (SEQ ID NOS: 23 and 24) under the same or substantially the same conditions.
94. (Currently Amended) An isolated antibody or functional fragment thereof according to claim 93, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 5 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 13.
95. (Currently Amended) An isolated antibody or functional fragment thereof according to claim 93, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 6 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 14.
96. (Currently Amended) An isolated antibody or functional fragment thereof according to claim 93, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 7 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 15.
97. (Cancelled)

98. (Previously Presented) An isolated antibody to according to claim 93, which is an IgG.
99. (Previously Presented) An isolated antibody to according to claim 98, which is an IgG1.
100. (Currently Amended) An isolated human or humanized antibody or antibody fragment thereof containing an antigen-binding region ~~functional fragment thereof comprising an antigen-binding region that competes for binding with an antibody which specifically binds to an epitope of CD38, wherein the epitope comprises comprising an~~ within amino acids 44 to 206 residue between 1 to 215 of CD38 (SEQ ID NO: 22).
101. (Currently Amended) An isolated antibody or antibody fragment thereof containing an antigen-binding region ~~functional fragment thereof~~ of claim 100, ~~wherein the epitope comprises an amino acid residue found which specifically binds~~ within amino acids 44-66, 82-94, 142-154, 148-164, 158-170, or 192-206 of CD38 (SEQ ID NO: 22).
102. (Currently Amended) An isolated antibody or antibody fragment thereof containing an antigen-binding region ~~functional fragment thereof~~ according to claim 100, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 5 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 13.
103. (Currently Amended) An isolated antibody or antibody fragment thereof containing an antigen-binding region ~~functional fragment thereof~~ according to claim 100, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 6 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 14.
104. (Currently Amended) An isolated antibody or antibody fragment thereof containing an antigen-binding region ~~functional fragment thereof~~ according to claim 100,

comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 7 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 15.

105. (Currently Amended) An isolated antibody or antibody fragment thereof containing an antigen-binding region functional fragment thereof according to claim 100, comprising an H-CDR1, H-CDR2 and H-CDR3 depicted in SEQ ID NO: 8 and an L-CDR1, L-CDR2 and L-CDR3 depicted in SEQ ID NO: 16.
  106. (Cancelled)
  107. (Previously Presented) An isolated antibody according to claim 100, which is an IgG.
  108. (Previously Presented) An isolated antibody according to claim 107, which is an IgG1.
- 109-141 (Cancelled)
142. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 101, which specifically binds within amino acids 44-66 or 148-164 of CD38 (SEQ ID NO: 22).
  143. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 142, which specifically binds within amino acids 44-66 and 148-164 of CD38 (SEQ ID NO: 22).
  144. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 101, which specifically binds within amino acids 192-206 of CD38 (SEQ ID NO: 22).
  145. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 101, which specifically binds within amino acids 82-94 or 158-170 of CD38 (SEQ ID NO: 22).

146. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 145, which specifically binds within amino acids 82-94 and 158-170 of CD38 (SEQ ID NO: 22).
147. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 101, which specifically binds within amino acids 82-94 or 142-154 of CD38 (SEQ ID NO: 22).
148. (New) An isolated antibody or antibody fragment thereof containing an antigen-binding region of claim 147, which specifically binds within amino acids 82-94 and 142-154 of CD38 (SEQ ID NO: 22).